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1 A. No, he's not.
2 Q. And you sat right beside Mr. Robinson during that
3 deposition.
4 A. That's the only chair.
5 Q. Did you attend the deposition of Mr. John Bankhead who is
6 the chairman of the Noxubee County Election Commission?
7 A. Partially.
8 Q. Partially?
9 A. Yes.
10 Q. And Mr. Bankhead is not a member of the Democratic
11 Executive Committee.
12 A. No.
13 Q. And you sat right beside him during his deposition.
14 A. The only chair.
15 Q. So we've taken -- would you agree with me we've taken nine
16 depositions in the case, one from you, eight from people, with
17 the exception of Ms. Windham, who are not presently members of
18 your committee, and you have chosen to attend all of them and
19 sit beside the deponent in each deposition.
20 A. I was advised by counsel to be at all of them.
21 Q. You were advised by your lawyer to come to all the
22 depositions --
23 A. That's correct.
24 Q. -- and sit beside the deponent?
25 A. That would be the only seat.

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1 Q. At some points in the deposition, Mr. Brown, isn't it
2 correct to say that you have passed notes to your attorneys?
3 A. Yes.
4 Q. Okay. Wouldn't you agree with me that looking back on your
5 participation that you have played an active role in the
6 defense of this case?
7 A. Of course.
8 Q. As you have a right to?
9 A. That's right.
10 Q. But you've been very active. Right?
11 A. Yeah.
12 Q. Okay. And you have -- you've had an occasion to go to the
13 Colom law firm office in Columbus, Mississippi, and review
14 documents that have been forwarded to that firm by the United
15 States, have you not?
16 A. Just the newspaper clippings.
17 Q. And you have reviewed the newspaper clippings in the office
18 there. Right?
19 A. Yes.
20 Q. And would it be fair to say that there were 2- to 300
21 newspaper clippings that the United States provided to your
22 attorney in our initial disclosures?
23 A. Oh, I don't know about that.
24 Q. You don't know the number?
25 A. No.

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1 Q. But you have -- have you reviewed each one of the articles?
2 A. No.
3 Q. Do you remember specifically how many you've reviewed?
4 A. I do not.
5 Q. And you've reviewed them there in the office?
6 A. Correct.
7 Q. Okay. And isn't it true to say that during the time that
8 you were doing that review that there were some times when
9 Mr. Colom and Ms. Woodrick were not present?
10 A. Oh, I don't know about that. I wasn't -- that's been five
11 or six months ago..
12 Q. They didn't stay in the -- well, the record in this case
13 indicates that those documents were forwarded to Mr. Colom's
14 office on July 12th of 2005.
15 A. Well, I don't remember it being July 12th. What I remember
16 was in the very beginning I'd only been there one time.
17 Q. And you reviewed -- you reviewed newspaper articles at that
18 time?
19 A. Yeah. I don't know when it was.
20 Q. And those were newspaper articles that were provided by the
21 United States. Correct?
22 A. I presume.
23 Q. And isn't it correct to say that you had those documents in
24 a room at the Colom law firm at times when Ms. Woodrick and
25 Mr. Colom were not in the room with you. Correct?

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1 A. I can't say that. I can't say that.
2 Q. But you don't deny it, do you?
3 A. I don't affirm or deny because my memory of the situation
4 was I came up there, and it was like toward the evening and I
5 had to get back to Macon; and they told me they had the
6 discovery documents, like the newspaper clippings and stuff,
7 and that I could look at them if I wanted to.
8 Q. And you looked at them?
9 A. Some of them. Then it was time for me to go.
10 Q. Did you also play a part in -- are you aware of the fact
11 that your attorneys have provided a list of people that they
12 believe might have relevant information to claims in the case?
13 A. Yeah.
14 Q. Okay. And you helped the attorneys in the collection of
15 those names, did you not?
16 A. I gave them a list of names of people, you know, like on
17 the executive committee and stuff like that that you all had
18 asked for.
19 Q. All right. Now, in 1994, you were convicted in this court
20 of nine counts of tax fraud. Correct?
21 A. I don't know if they call it that or not, but he was the
22 judge.
23 Q. Judge Lee was?
24 A. Yes, he was.
25 Q. And you were sentenced to two years in the federal

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1 penitentiary?
2 A. That's correct.
3 Q. And you had to -- you were released one time and then sent
4 back?
5 A. However you want to characterize it. I didn't characterize
6 it like that.
7 Q. Well, you came to a halfway house here in Jackson and then
8 subsequently you were returned to the federal penitentiary,
9 were you not?
10 A. That part is correct.
11 Q. And you were released from federal custody in 1997?
12 A. No.
13 Q. What year were you released?
14 A. '96.
15 Q. Okay. So it's been less than ten years. As of today, you
16 have been released from your federal custody less than ten
17 years?
18 A. That's correct.
19 Q. Now, you have been a faithful and loyal supporter of
20 Sheriff Albert Walker in his runs for sheriff of Noxubee
21 County, have you not?
22 A. More or less.
23 Q. You supported him in '91 when he ran against Bob Boykin?
24 A. I don't know about that, now.
25 Q. You supported him in '95. Correct?

1 been voting, you would have voted for Sheriff Walker?
2 A. Of course. But you asked me about support.
3 Q. In 1999, you supported him in his run against Earnest
4 Eichelberger, did you not?
5 A. I really didn't get a chance to in '99.
6 Q. Your testimony under oath here today --
7 A. I really didn't get a chance to.
8 Q. -- is that you did not support Sheriff Walker?
9 A. I worked as his -- when they had -- when the election was
10 over with, we had a recount. I served at it. But in '99, I
11 was more involved in my brother's race who was running for
12 supervisor in Madison County. That's why I wound up not being
13 here on election day in '99 in Noxubee County because I voted
14 absentee to help him, my brother.
15 Q. When Mr. Eichelberger filed an election contest against
16 Sheriff Walker in 1999, at that point you supported Sheriff
17 Walker, did you not?
18 A. Well, in the election contest -- when it really got around
19 the hearing, I had become Democratic Party chairman.
20 Q. Right.
21 A. So I had to attend the trial.
22 Q. And you supported Sheriff Walker, did you not?
23 A. I mean, what do you call support?
24 Q. You supported him in his attempts to not have the election
25 thrown out.

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1 A. No, I couldn't have supported him in '95. I was in prison.
2 Q. You were incarcerated at that time.
3 A. That's right.
4 Q. But isn't it true that you wrote a letter to a person in
5 Noxubee County listing -- addressed to the black voters of
6 Noxubee County listing the candidates that you supported in
7 that 1995 election?
8 A. I wouldn't characterize it that way. I had a friend that I
9 discussed with you previously that asked me who I thought was
10 the best. Me and her was just talking, and I wrote her a
11 letter.
12 Q. Okay.
13 A. Not for publication.
14 Q. Well, the letter was public -- didn't you find out later
15 that the letter was publicized?
16 A. I found out when you -- I found out when you showed it to
17 me.
18 Q. And in that letter, didn't you list a number of candidates
19 that you supported in 1995?
20 A. Some of them.
21 Q. And one of those was Sheriff Albert Walker. Correct?
22 A. Unh-unh. One of them -- these are people that I was
23 intending to vote for; but as far as any support, I couldn't
24 really give none.
25 Q. Well, did the letter indicate if you had been out and had

1 A. I was the Democratic chairman.
2 MR. COLOM: Your Honor, this is going pretty far
3 afield on this issue. He's already said he generally supported
4 him.
5 MR. COATES: I'll withdraw the question.
6 THE COURT: All right.
7 BY MR. COATES:
8 Q. I'll go to another area. I do want to ask you, though,
9 about in that election contest, Mr. Eichelberger filed an
10 election contest against Sheriff Walker. Correct?
11 A. To my knowledge.
12 Q. And a chancery judge from Jackson was brought in to hear
13 that election contest. Correct?
14 A. Yes.
15 Q. What was her name?
16 A. Judge Wise.
17 MR. COLOM: Your Honor, I think this is totally
18 irrelevant. We're really going into the merits of the case.
19 A. Sure is.
20 THE COURT: What's your response to the objection?
21 MR. COATES: The response is that on this motion for
22 protective order is that Mr. Brown's relationship with Sheriff
23 Walker and with his chief deputy, Mr. Grasserez, is highly
24 relevant; and I'm asking the Court for leeway to ask about four
25 sheriff races, '91, '95, '99, and 2003, where Mr. Brown has

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1 played an active role in Sheriff Walker's campaigns.
2 THE COURT: Okay. I'll overrule the objection.
3 BY MR. COATES:
4 Q. Do you remember the judge from Jackson?
5 A. I just told you that.
6 Q. And what was that, sir?
7 A. Judge Wise.
8 Q. Judge Wise came down and heard the election?
9 A. That's right.
10 Q. And Judge Wise ruled that the election in 1999 was legally
11 flawed under Mississippi law. Isn't that right?
12 A. I couldn't go that far because I'm not a lawyer reading
13 what she came up with. All I know is it never gave me an order
14 to do anything.
15 Q. Well, do you deny the fact that Judge Wise issued an order
16 and opinion finding that the 1999 sheriff's race was legally
17 flawed because a sufficient number of illegal ballots had been
18 counted?
19 A. I'm saying that's a legal conclusion. I'm not a lawyer.
20 Q. And after Judge Wise entered her ruling -- you remember
21 that, don't you?
22 A. I know she entered one.
23 Q. And after Judge Wise entered her ruling finding in favor of
24 Mr. Eichelberger and against Sheriff Walker, isn't it a fact
25 that you as the chairman of the Democratic Executive Committee

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1 in Noxubee County refused to hold another election?
2 A. I wouldn't go that far.
3 Q. Well, what's wrong with what I just said?
4 A. I tell you what's wrong with it: First of all, the suit
5 was filed against the previous Democratic chairman. I did have
6 to participate because I had got elected chairman. Second of
7 all, nobody came to me with nothing, saying do anything. I
8 knew that in order to do anything it had to be precleared by
9 the Justice Department. We didn't have -- we didn't have no
10 paid attorney or nothing. So nobody came to me with anything,
11 so I didn't see anything to do until somebody come bring me a
12 paper saying do this on this day or you need to do something.
13 Nobody brought me anything.
14 Q. And when Judge Wise's ruling came down, you were the
15 chairman of the executive committee in Noxubee County.
16 Correct?
17 A. I already stated that.
18 Q. And the answer is yes, you were?
19 A. Yes.
20 Q. And did you publicly announce at that time that you saw no
21 reason to hold another election until the regularly scheduled
22 elections in 2002?
23 A. I don't know all that, now.
24 Q. You don't deny it, though, do you? Sir?
25 A. I don't affirm or deny.

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1 Q. Okay. Now, when you talked to Mr. Slaughter, were you
2 talking about Ward 2 and city elections or supervisory District
3 2 for board of supervisors elections?
4 A. I already stated. We talked about both of them.
5 Q. You talked about both of them.
6 A. That's correct.
7 Q. And your testimony is that you told the people from
8 Aberdeen that you thought it would be good if they gave
9 Mr. Slaughter a job because he had had some problems in Macon
10 and it would help him to get away from Macon for a while?
11 A. Now, that mischaracterizes what I said. I said the chief
12 called me. And I told him -- he asked me what about Slaughter.
13 I said, "Well, I think he'll all right if he gets out of
14 Macon."
15 Q. If he gets --
16 A. Because we knew he had some problems there.
17 Q. We're in agreement he had some problems in the summer of
18 2005 -- that Mr. Slaughter had some problems in Macon?
19 A. No. That occurred before the summer of 2005.
20 Q. But in 2005, the problem was still going on. Correct?
21 A. No, because he wasn't no officer.
22 Q. Let me ask just you a couple of questions about the 2005
23 elections in the city of Macon. You were at city hall on the
24 day of the May 17th runoff between Mr. Boykin and Mayor Hines,
25 were you not?

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1 A. Like he said, in and out.
2 Q. In and out. All day. You were working --
3 A. Not all day.
4 Q. You were working as a poll watcher, weren't you?
5 A. I had a poll watcher authorization so I could come in and
6 out.
7 Q. Okay. Okay. And were you at the city -- the city only has
8 one precinct. Correct?
9 A. That's correct.
10 Q. And it's there at city hall?
11 A. Well, yeah, sort of.
12 Q. You're right. And I understand the reason for your
13 hesitancy. The city hall and the city court is in one
14 building.
15 A. Yeah.
16 Q. And the elections are held in the city court -- city court
17 building?
18 A. Yeah, what we call like the little auditorium or something.
19 Q. Right. And you were in and out of there --
20 A. That's right.
21 Q. -- at the time of the general election too?
22 A. No, not in the general election.
23 Q. But you were there for the runoff but not the general?
24 A. Well, I came and voted in the general election.
25 Q. Okay. So you came to the city hall that day?

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1 A. And voted.
2 Q. And did Darrell Mitchell report to you that Mr. Slaughter
3 had talked with the DOJ employees?
4 A. I ain't hardly talked to Darrell Mitchell at all. As a
5 matter of fact, we wasn't on speaking terms.
6 MR. COATES: Excuse me just a moment, Your Honor.
7 (Short Pause)
8 BY MR. COATES:
9 Q. Let me just ask you one other question about your
10 participation at deposition. You did write out a number of
11 questions for the lawyers to ask, did you not?
12 A. Yeah, a few questions.
13 Q. And do you remember approximately how many there were --
14 A. I don't remember all of that.
15 Q. -- per deponent?
16 MR. COATES: No further questions.
17 MR. WAIDE: Your Honor, if the Court please, I had
18 some cross also.
19 THE COURT: All right. On behalf of the other
20 plaintiff.
21 CROSS-EXAMINATION
22 BY MR. WAIDE:
23 Q. Mr. Brown, I want to ask you some questions about what
24 counsel has asked you to see if I understand what they're both
25 talking about. You started out by telling us that you talked

1 named there. Right?
2 A. I understand, but it's a number of folks.
3 Q. Well, let me see if I can get a flavor for the kind of
4 things that you're being accused of. In fact, why don't you
5 tell us. What is it that you're being accused of doing with
6 the voters down there?
7 MR. COLOM: I object. There's no point in going into
8 the merits of this lawsuit, because if he starts inquiring
9 about the merits of the lawsuit I'm going to have to respond to
10 it.
11 MR. WAIDE: Your Honor, if the Court please, the
12 question is -- or one of the questions that we're here about is
13 whether Mr. Brown had anything to do with putting Mr. Grassereee
14 up to what he's doing, and he's just told us Mr. Grassereee is
15 not even a defendant in this case and didn't have anything
16 against Mr. Slaughter as far as he knows. And I'd like to show
17 there are very serious allegations here being made against
18 Mr. Brown and he would have every reason to be involved in it.
19 THE COURT: I'll reserve ruling on the objection.
20 BY MR. WAIDE:
21 Q. Mr. Brown, what kind of things -- I don't want to go into
22 the details, and I know you deny all of it, but what --
23 A. That's right.
24 Q. -- are these things you're being accused of doing?
25 A. Well, see, that's the problem. The allegations were

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1 to the chief of police up in Aberdeen and you've told them that
2 Mr. Slaughter had some problems down in Noxubee County.
3 A. That's right.
4 Q. All right. Now, who are the individuals that he had
5 problems with in Noxubee County?
6 A. Well, one of them I'd rather not say because of the fact
7 that it was involving a sexual sensitive matter, and the other
8 problems all related to the same thing: Females.
9 Q. Okay. He didn't have a problem with Deputy Grassereee?
10 A. No, not that I'm aware of.
11 Q. He had no problem with Deputy Grassereee?
12 A. That I'm aware of.
13 Q. And Mr. Grassereee is not a defendant in this suit that's
14 been filed against you, is he?
15 A. No, not that one.
16 Q. This is a suit -- if I understand it right, and you correct
17 me if I'm wrong, and for Judge Lee's benefit, this is a suit
18 that says that you -- it accuses you of racial discrimination
19 in the voting down there. Is that correct? You're accused of
20 that.
21 A. In my capacity as the Democratic chairman.
22 Q. And it accuses you of some very serious acts regarding
23 voting and what's going on down in Noxubee County, doesn't it?
24 A. Well, they're accusing a number of folks.
25 Q. Well, you're one of them. You're the first one that's

1 general in nature against several folks and not specifically.
2 The only thing specific to the Democratic party was -- and I
3 assume the Democratic party, is like poll workers and committee
4 meetings.
5 Q. Well, let me just ask you specifically and see if I
6 understand some of them. One of the things you're being
7 accused of doing is keeping the white people's absentee ballots
8 from counting or having very strict standards for them but then
9 no standards at all for black people.
10 A. That's impossible.
11 Q. That's one of the things you're being accused of, though.
12 Right?
13 A. Someone is being accused of it, but it's impossible for me
14 to do that because I don't count ballots.
15 Q. And you're being accused of having people vote in the
16 election that don't live in the districts. Right?
17 A. That's impossible again. I have no authority over that.
18 That's election commission.
19 Q. But you're being accused of that?
20 A. I don't know if I am or not. It's three of us in the
21 lawsuit.
22 Q. You were here when you heard Mr. Colom say this morning
23 that you actually supported a white candidate for mayor?
24 A. I support a lot of white candidates.
25 Q. You support white candidates?

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1 A. Yeah.
2 Q. And you don't support white candidates, do you, sir, unless
3 they pay you a substantial amount of money for your support.
4 A. That's untrue.
5 Q. How much did you collect from Mr. Boykin, sir?
6 A. I didn't collect anything from him.
7 Q. You didn't take any cash from him?
8 A. No.
9 Q. When you had your income tax case in this court, where
10 was -- what was your source of the money you weren't reporting?
11 MR. COLOM: Your Honor, we're going far afield and
12 into the merits of the case.
13 THE COURT: The objection is sustained.
14 BY MR. WAIDE:
15 Q. Is it your testimony in summary, sir, that you don't know
16 of any reason why Mr. Grasseree would just go out and arrest
17 Mr. Slaughter? You don't know of any reason why he would do
18 that, just arbitrarily arrest him for no reason?
19 A. No more than what I heard.
20 Q. You don't know of any reason?
21 A. I don't run the sheriff's department, so, I mean, no more
22 than what I heard, now. Since you asked the question, I can
23 tell you what I did.
24 Q. I'm sorry? Tell you what you did about what, sir?
25 A. When I found out that they had arrested him.

1 A. Everybody can go talk to people, you know, just like his
2 brother did.
3 Q. You went to a year of law school?
4 A. Yes.
5 Q. And you didn't know you weren't supposed to talk to a judge
6 about a pending case?
7 A. I know the judge ain't supposed to talk to me.
8 Q. So you knew the judge was doing something wrong when he
9 talked to you?
10 A. He didn't talk to me. I talked to him.
11 Q. Did you tell him he ought to dismiss the charge?
12 A. No, I didn't tell him that. I was trying to find out
13 whether the judges were first and once -- whether it was a
14 misdemeanor or felony. When I found it is a misdemeanor I
15 said, "This ain't going to amount to a whole lot," and he said,
16 "I don't know, but I doubt it."
17 Q. You say you talked to the sheriff?
18 A. I didn't have any conversation. When I went to him, it was
19 like, "We will talk to Terry," but I ain't talked to Terry.
20 Q. You went to the sheriff for the purpose of talking to him?
21 A. Trying to see what was going on.
22 Q. Did the sheriff tell you why he was arrested?
23 A. He don't ever discuss no business with me like that.
24 Q. You were here in the courtroom this morning when the charge
25 were discussed?

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1 Q. All right, sir. What did you do?
2 A. I went to see the sheriff and then I went looking for
3 Terry, and I went to the judge and see about the charges, see
4 could they be dismissed, because I didn't want Mr. Slaughter to
5 lose his job in Aberdeen. Everybody needs a job.
6 Q. You went to see them about dismissing the charges?
7 A. That's correct.
8 Q. Who did you talk to about dismissing them?
9 A. Well, I talked to the judge, but, you know, he can't do
10 that.
11 Q. You talked to the judge about dismissing the charges?
12 A. Well, see could they -- you know, what could be worked out
13 because I didn't want him to lose his job.
14 Q. What judge is that you're talking about?
15 A. Judge Dixon.
16 Q. So you have already talked to Judge Dixon about this case
17 already.
18 A. When it first come up.
19 Q. And it was just you and the judge there talking?
20 A. That's all.
21 Q. So are you telling Judge Lee that you have a relationship
22 with a judge, Judge Dixon in Noxubee County, so that you can
23 just go talk to that judge about a pending case?
24 A. Everybody does.
25 Q. I see. Everybody has that relationship?

1 A. Yeah.
2 Q. Is that the first you knew about why he was being arrested?
3 Nobody ever told you why he's being arrested?
4 A. It was all over the newspaper.
5 Q. It was all over the newspaper?
6 A. Yeah.
7 MR. WAIDE: May I have just a moment, Your Honor?
8 (Short Pause)
9 MR. WAIDE: That's all, Your Honor.
10 THE COURT: Do you have redirect?
11 REDIRECT EXAMINATION
12 BY MR. COLOM:
13 Q. There was a discussion about the race between the current
14 sheriff and Mr. Eichelberger and the ruling that the election
15 was flawed. Do you recall that?
16 A. Something like that. I mean, like I said, I was just
17 brought in because I was the chairman then.
18 Q. Did Mr. Eichelberger ever file a petition with the court
19 requesting that the Democratic party be ordered to have an
20 election --
21 A. No, he did not.
22 Q. -- a new election?
23 A. No, he did not.
24 Q. Did Mr. Eichelberger ever approach the Democratic Executive
25 Committee about having another election?

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1 A. No, he did not.
2 Q. Did his lawyer ever approach the Democratic Executive
3 Committee to ask for a new election?
4 A. No, he did not.
5 Q. Did anyone come to the Democratic Executive Committee and
6 ask for a new election?
7 A. No, they did not.
8 Q. At the time did Mr. Eichelberger have a new job?
9 A. Yes, he did.
10 Q. And did that -- did he ever tell you why he did not request
11 a new election?
12 A. He didn't, but, you know, we knew what the Mississippi law
13 was.
14 Q. That he would have to resign his existing job with the
15 highway patrol in order to run a new election?
16 A. That's correct.
17 MR. COATES: Objection. He's leading his witness,
18 first of all. And, secondly, is that the witness has testified
19 that Mr. Eichelberger never told him why he allegedly did not
20 come back and ask for an election. Mr. Colom is trying to
21 suggest it was because of Mr. Eichelberger's status as a
22 highway patrolman, but this witness can't testify to that.
23 THE COURT: Well, rephrase your question.
24 BY MR. COLOM:
25 Q. Did Mr. Eichelberger have a job with the highway patrol?

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1 A. Yes.
2 Q. And had he requested a new election and participated in
3 that election, what would he have had to have done?
4 A. He would have had to resign.
5 Q. Now, it was talked about federal poll watchers at the city
6 election that had a discussion with Mr. Slaughter. You heard
7 that testimony, did you not?
8 A. Yes.
9 Q. Is it unusual for federal poll watchers to be in elections
10 in Noxubee County?
11 A. No.
12 Q. Has there been an election in the last 15 years where there
13 has not been federal poll watchers?
14 A. Well, I haven't been there sometime, but I can't think of
15 one.
16 Q. Okay. Do you even pay any attention to federal poll
17 watchers?
18 A. No.
19 MR. COLOM: Nothing further, Your Honor.
20 A. May I say something to the Court?
21 THE COURT: In explanation of a question that's been
22 asked you?
23 A. Yes, sir.
24 THE COURT: All right, sir.
25 A. A lot has been made of my friendship with Mr. Walker, but

1 personally, I love politics and I like the winning and losing
2 of elections. But I'm kind of like George Waller used to be:
3 He loved running for office, but he didn't like governing it.
4 That's my attitude about politics. I like to help folks win or
5 lose, but then after that, it don't really matter with me. I
6 mean, I don't talk to Sheriff Walker about who he hires and who
7 he fires. I don't talk to Mr. Mickens about who he hires or
8 fires. I don't know talk to Representative Dixon how she votes
9 or Sandra Jackson. I just like elections. But now, once, they
10 get in office, I'm through with it.
11 MR. COATES: May I?
12 THE COURT: In response to that?
13 MR. COATES: Yes, sir.
14 FURTHER CROSS-EXAMINATION
15 BY MR. COATES:
16 Q. You've testified that you supported Bob Boykin for mayor of
17 the city of Macon. Correct?
18 A. That's right.
19 Q. And isn't it true that you made the statement to
20 Mr. Boykin's wife that if he won the mayoral position in the
21 city of Macon that they would, quote, owe you?
22 A. Not exactly that way.
23 Q. Words to that effect?
24 A. No. What I said was -- she had just won. All of us were
25 sitting around joking. She knew I was being facetious. And I

1 said, "I worked harder than y'all did. Y'all owe me one."
2 That's what I said, because I was being facetious.
3 Q. So you just care about who wins or loses. You don't care
4 about how they govern. But you make statements to people's
5 wives during an election that they will owe you?
6 A. The election was over with. We were just joking out there.
7 All of us were out there kidding around.
8 Q. You meant that the Boykins owed you after the election.
9 Correct?
10 A. No, I was just joking with them.
11 Q. Mr. Eichelberger never told you that he did not want
12 another election. Correct?
13 A. No. To tell you the truth, we never talked one way or the
14 other.
15 MR. COATES: No further questions.
16 THE COURT: Mr. Brown, that concludes your testimony
17 and you may stand aside. Mr. Colom, do you have anything
18 further?
19 MR. COLOM: Nothing further, Your Honor.
20 THE COURT: Do the plaintiffs have any rebuttal?
21 MR. COATES: No, sir.
22 MR. MURRAY: No, Your Honor.
23 THE COURT: All right.
24 MR. COLOM: Your Honor, I haven't had a chance to talk
25 to the sheriff and Mr. Grasseree. They are -- they asked me

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1 and I agreed on their behalf to request that the Court give a
2 continuance in this matter and allow them to have an attorney
3 to participate in a subsequent hearing. They are -- they're
4 currently without counsel. I think that they were mistakenly
5 under the belief that Mr. Walker was going to represent them
6 and that they have discovered I think as of today that he does
7 not.

8 SHERIFF WALKER: That was true. That's what was told
9 me by -- the president of the board told me Ricky Walker was
10 sent to represent us.

11 THE COURT: When was the Complaint filed in this case?

12 MR. MURRAY: The Complaint was filed October 11, 2005.
13 It is in the process of being served. As a sworn affidavit
14 before me, I notified each and every defendant, Sheriff Walker,
15 Deputy Grasseree, Mr. Walker, and the County of Noxubee that
16 there would be a hearing today and they needed to be here.

17 THE COURT: Process has not been served?

18 MR. MURRAY: No. This is a temporary restraining
19 order, so, I mean -- parties do not have to be here to begin
20 with. So, I mean, and the other aspect is they have a --
21 they're trying Mr. Slaughter on next Monday. So the fact of
22 the matter is they've had plenty of opportunity. They've known
23 about it. I swear to this Court they have been severed on
24 this, but, again, you know, they didn't even have to be here.

25 THE COURT: What is the prosecution of this case

1 but in the meantime, as a condition of continuing this case,
2 the criminal prosecution in the justice court is enjoined and
3 at such time as the Court is advised that within 20 days that
4 counsel is employed, we will set an early hearing for the Court
5 to then hear and finally rule on these motions. Is there
6 anything from either the plaintiffs or defendants that you want
7 to ask about the Court -- ask of the Court before I adjourn?

8 MR. COATES: Yes, sir.

9 THE COURT: All right, sir.

10 MR. COATES: Your Honor, we would -- we still have our
11 motion pending for protective order and would like to be heard
12 on that at this time, if we could.

13 THE COURT: All right.

14 MR. COATES: Your Honor, the claims by Mr. Slaughter
15 in his 1983 action and the motion by the United States for
16 protective order in United States v. Brown, as the Court is
17 well aware, are two different matters. There's an overlap in
18 terms of the evidence, but there is evidence that's relevant to
19 our claim that's not relevant in the 1983 action and vice versa
20 and --

21 THE COURT: All right. Specifically what is it that
22 you ask of the Court and the basis for it?

23 MR. COATES: What we're asking for is the Court issue
24 a protective order that would direct Mr. Brown, the members of
25 the Democratic Executive Committee, Terry Grasseree, and any

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1 slated to occur?

2 MR. WALKER: A week from tomorrow is my understanding.
3 Judge. I believe that's the 14th. I don't have my calendar
4 with me. A week from tomorrow, whatever date that is.

5 THE COURT: We can't very well continue the case then
6 if the effect of this would be to carry the hearing past the
7 date that the trial is scheduled.

8 MR. COLOM: Just one moment, Your Honor.

9 THE COURT: Let me speak to the lawyers off the record
10 a minute.

11 (At the bench off the record)

12 THE COURT: I'm going to take a recess for a few
13 minutes.

14 (Recess)

15 THE COURT: In this case there are some serious
16 allegations that concern the Court greatly, particularly your
17 conduct, Mr. Grasseree. There doesn't seem to be any basis for
18 criminal prosecution in this case, at least prosecution of
19 Mr. Slaughter. The Court wonders why the sheriff and the
20 deputy are pursuing these charges under these circumstances. A
21 request has been made on behalf of these defendants that they
22 can employ counsel before the Court finally rules on this --
23 these injunctive motions. The Court is going to allow Sheriff
24 Walker and Deputy Grasseree to have 20 days within which to
25 employ counsel. The case will be continued until that time;

1 other officers or agents working in concert with those
2 defendants not to intimidate, harass, or threaten violence
3 toward any people who are believed to have information relevant
4 to this case. The reason -- and we believe that there is some
5 persuasive evidence before the Court that would indicate that
6 that type of protective order is necessary to ensure that the
7 Voting Rights Act case against Mr. Brown and the members of the
8 Democratic Executive Committee can be properly litigated in
9 this court.

10 These are highly unusual circumstances for one law
11 enforcement officer, the deputy chief in Noxubee County, to
12 treat another present law enforcement officer in the manner
13 that Mr. Slaughter was treated on July 15th of 2005. There is
14 no -- the evidence is clear that there is no legal probable
15 cause for any kind of an arrest to have taken place on
16 July 15th. Mr. Slaughter has testified under oath here today,
17 and Mr. Grasseree even though he is present in court has not
18 taken the stand and given any contradictory evidence, so in --
19 at this point in the proceeding, Mr. Slaughter's rendition of
20 the events of July 15th is uncontradicted and it is also
21 corroborated by the testimony of Officer Clanton.

22 For Noxubee County officials to press an obvious frivolous
23 criminal prosecution against one of -- one of the people that
24 we believe has relevant knowledge in this case is a factor that
25 weighs in favor of the need for a protective order. Even if

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1 the July 15th incident had not occurred, Mr. Slaughter
2 testified that Mr. Grassere sometime between the
3 May 17th primary and the general election in early June talked
4 to him about the fact that he should not be talking with people
5 from the Department of Justice and that he should not talk to
6 them because they were no good. So even if the incident had
7 not occurred on July 15th, there's already uncontradicted
8 evidence in the record -- Mr. Grassere has not contradicted
9 that testimony of Mr. Slaughter even though he's been in court
10 today, uncontradicted testimony that there had been prior to
11 July 15th a statement that Mr. Slaughter should not talk to
12 members of the Department of Justice, and that factor weighs
13 heavily in favor of our motion for protective order.

14 Thirdly, is the sequence of events. In many cases where
15 the matter is disposed of on the basis of some very persuasive
16 and highly relevant circumstantial evidence is that the time
17 sequence and the proximity of events to each other have great
18 weight. In this case, the evidence is clear that three days
19 after the list went out that Mr. Grassere was on, three days
20 later this unprovoked incident between Grassere and Slaughter
21 occurred.

22 Mr. Slaughter's value to the United States in the case of
23 United States versus Ike Brown is very, very important. It
24 reminds me of what people used to say in North Carolina, the
25 state that I'm from, is that the government can't prosecute

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1 bootleggers by calling somebody who is a teetotaler. I'm not
2 speaking about Mr. Slaughter's drinking habits here because I
3 don't know anything about them. I'm merely using it as an
4 analogy.

5 The reason that Mr. Slaughter's name jumped off of that
6 list is because unlike a number of the other people who are on
7 that list, he is a person who has been inside the sheriff's
8 department. Noxubee County officials, including Mr. Brown,
9 knew that Mr. Slaughter would know things of an eyewitness
10 nature that would be valuable -- very valuable to our Voting
11 Rights Act case that other people would not know, and the value
12 of him as a witness to the United States begs for the Court to
13 restrain any type of intimidation or threats to him.

14 Now, Mr. Brown has claimed that he did not learn who the
15 potential witnesses were in the case until he read something
16 about it in the newspaper, but the evidence indicates that
17 Mr. Brown is a very politically active person in a number of
18 organizations and various parts of the state. He's a former
19 law student at Mississippi College of Law here in Jackson. He
20 has actively participated in eight depositions of -- not
21 members of his -- seven of them not members of his committee.
22 He goes to the depositions, sits beside the deponents, writes
23 questions to his lawyers, asks his lawyers to move so he can
24 sit beside one of the deponents. This is a person who is
25 actively involved in the defense of this case.

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1 And his testimony that after all of that activity, after
2 working with the lawyers with regards to the documents and the
3 list of potential witnesses, attending all the depositions,
4 that he would not find out who the potential witnesses are in
5 this case is unbelievable; and we would respectfully submit
6 that it should not be credited, and the fact that Mr. Brown is
7 a convicted felon in this court on nine counts of tax forgery
8 within the last ten years also weighs against the weight that
9 should be given.

10 Now, Ms. Woodrick, in a deposition, said that she did not
11 give Mr. Brown the names, and Mr. Colom has represented to this
12 Court today that he did not give Mr. Brown the names; but the
13 testimony today indicated that Mr. Brown had reviewed documents
14 in Mr. Colom's law firm without either one of those lawyers
15 being there. Your Honor, that creates the real possibility
16 that Mr. Brown could have found the list in the documents -- in
17 the document file and found out that Mr. Slaughter's name was
18 on that list of 110 people without those two lawyers knowing
19 it. It creates the real possibility that Mr. Colom and
20 Ms. Woodrick are telling this Court the truth when they make
21 those representations, but Mr. Brown is not telling the truth
22 when he testifies that he did not know that Kendrick Slaughter
23 was on the list of people who were felt to have information.
24 It is also noteworthy, Your Honor, that Mr. Grassere was a
25 member of the Democratic Executive Committee until 2003, a time

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1 in -- 2003 is a time that's very important to the merits of our
2 lawsuit because it involves the 2003 primary about which a lot
3 of the evidence on the merits of the case will have to do
4 about.

5 Ms. Brown's deposition: What Mr. Grassere had taken sides
6 and essentially enforced the 50-foot Mississippi law rule about
7 not campaigning at the polls in a way in favor of Mr. Albert
8 Walker and against his white opponent in the 2003 Democratic
9 primary is also an important factor. And the uncontradicted
10 testimony of Mr. Slaughter that Mr. Grassere had approached
11 him and tried to get him to come out of the 2005 race in the
12 city of Macon because of Mr. Grassere's fear that
13 Mr. Slaughter's candidacy would split the black vote is a very
14 type of racial politics that Mr. Brown and the executive
15 committee are accused of practicing in this case. And we would
16 ask on the basis of all of those pieces of circumstantial
17 evidence that the Court grant our protective order.

18 Now, the cases that we rely upon are cited in our brief.
19 Judge Higginbotham, the late Leon Higginbotham, when he was on
20 the Eastern District of Pennsylvania had an analogous case
21 that's discussed, Commonwealth v. The Local Union No. 542. It
22 was not a Voting Rights Act case but it was a Title 7 case.
23 And Judge Higginbotham ruled that the Court had the inherent
24 power to issue injunctive relief to enjoin violence or
25 intimidation or harassment designed to deter the use of the

33 (Pages 129 to 132)

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1 federal courts. And what has happened to Mr. Slaughter in this
2 case is a very, very good example of where inherent powers are
3 needed; and we ask the Court to use them to protect the
4 jurisdiction and the validity of the process that we will be
5 about before, Your Honor, in the merits of the case.

6 THE COURT: What position do you take about your --
7 the burden of proof in establishing this? You referenced
8 some -- perhaps somewhat related occurrences that might
9 indicate or suggest that this is not coincidental, but what is
10 the standard of proof and how is it that you've met that burden
11 of proof? I've heard your explication of the facts, but do you
12 have anything to say about your burden of proof on this?

13 MR. COATES: Yes, sir. We believe that if the -- the
14 preponderance of the evidence test would be the normal test;
15 and we believe that the evidence, including the uncontradicted
16 evidence in this case, would support a finding that it is more
17 likely than not that Mr. Slaughter was intimidated and harassed
18 because of the -- of the fact that he was known to be someone
19 who was cooperating with the DOJ. And it's particularly, we
20 believe, appropriate for the Court to draw that inference in
21 light of the fact that we still have the continuation of an
22 unwarranted and meritless criminal prosecution. Why else would
23 one go forward with a prosecution that is so meritless other
24 than to do it for alternative reasons. But we -- and we
25 concede that under Judge Higginbotham's ruling that

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1 preponderance of the evidence or moral certainty would be the
2 standard, but we have cited the case of United States v.
3 Melrose East Subdivision and provided the Court and opposing
4 counsel with a copy of the case. It's a 2004 Fifth Circuit
5 case. It involves a civil forfeiture where the government
6 asked for interim relief to enjoin the defendant from conveying
7 property during the case because the property was the subject
8 of the civil forfeiture. We ask the Court to give great
9 consideration to whether Melrose would provide a basis for
10 concluding that a probable cause standard is applicable here
11 rather than a preponderance of the evidence test, that we
12 believe that we satisfy both. We do not think that United
13 States v. Melrose is controlling authority because it arises in
14 a different context, but we believe that it's pervasive
15 authority.

16 What we read Melrose to say is that it refers to the 1989
17 Supreme Court case, United States v. Monsanto, which was
18 decided long after Judge Higginbotham's decision that we refer
19 to. And what Monsanto says is essentially in deciding a
20 standard of proof -- under the due process clause, in deciding
21 the standard of proof one looks at what interests are at play;
22 and in this case, the United States is not asking for an
23 injunction that would pertain to the merits of the case. Many
24 times -- or sometimes in a Voting Rights Act case, for example,
25 if we were challenging out large elections, we would ask for

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1 interim elections to be held on a district voting matter or in
2 this case we would ask for Mr. Brown to be enjoined concerning
3 the selection of poll workers or certain activities at the
4 poll, but we're not asking for any of the relief that we're
5 asking for in the underlying case. The only thing that we're
6 asking for in our protective order is an order that simply
7 tells the defendants and Mr. Grassereee not to do what they
8 already have a legal -- have a legal duty not to do, and that
9 is not to harass and intimidate or threaten persons who might
10 have information that would be relevant to the case. So the
11 interest by Mr. Grassereee or by Mr. Brown or by the Democratic
12 Executive Committee is not -- is not weighty.

13 We're just asking the Court to tell them to not do what
14 they already have a legal duty not to do and that in that
15 context that an application of the Melrose, the 2004 Fifth
16 Circuit ruling applying the Monsanto reasoning from the Supreme
17 Court, would say that a probable cause -- probable cause to
18 believe that Mr. Slaughter was harassed and intimidated because
19 of the fact that he had cooperated with the DOJ and because the
20 very person who harassed him had told him not to talk with us,
21 that that -- that evidence is sufficient to satisfy the
22 probable cause standard and that even if the Court disagrees
23 and would say that Melrose is not applicable and, therefore, we
24 have to satisfy the more demanding, more likely than not
25 probable cause standard, that all the circumstantial evidence

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1 in this case and the direct evidence in this case and the
2 uncontradicted evidence in this case would satisfy the
3 standard.
4 We know that this is an unusual remedy to ask for, but we
5 believe that these are unusual circumstances and that
6 irreparable harm will occur to the United States' opportunity
7 to prove its case and carry its burden of showing Voting Rights
8 Act violations by Mr. Brown and by the Democratic Executive
9 Committee if that relief is not granted. Thank you very much,
10 Your Honor.

11 THE COURT: Mr. Colom, do you want to respond?

12 MR. COLOM: Yes. Your Honor, there are no cases
13 outside of the forfeiture cases that apply to anything other
14 than the probable cause standard. I think it is hornbook law
15 that the probable cause standards -- not probable cause, is a
16 preponderance of the evidence standard as a standard in this
17 case.

18 THE COURT: Preponderance of the evidence because
19 probable cause is not as heavy a burden.

20 MR. COLOM: It's no doubt in this context only
21 preponderance of the evidence has been applied only in the
22 context of forfeiture of drugs and those things and property
23 cases where -- involving taking of property by eminent domain,
24 they've stopped based on probable cause standard.

25 Your Honor, this case is not a mystery. We pretty much

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1 know what happened. Grasseree stopped Mr. Slaughter, told him
2 to go see the sheriff. There was some issue about whether or
3 not he was still working, what he was going to do with the
4 uniform and whatever; and Mr. Slaughter insulted Mr. Grasseree
5 at least, told him he wasn't going now, get there when he
6 could, rolled up his window and drove off.

7 Then there was a pursuit. After the pursuit and all the
8 incidents took place, his brother comes and testifies that I
9 talked to Mr. Grasseree. I talked to the sheriff. I believe
10 that's what he said. And they said if you -- they are willing
11 to forget about it and -- Mr. Slaughter says if he would forget
12 about it. And Mr. Slaughter said, "I'm not going to forget
13 about anything." Never once did Ike Brown, this case involving
14 the United States of America against the Democratic Executive
15 Committee ever come up. It wasn't even a consideration. You
16 forget about it, we'll forget about it. It seems that the
17 people lost their tempers over this situation as best evidence
18 says now.

19 Slaughter does not claim that Mr. Brown intimidated him. I
20 think it's important that the Court look at the disclosures by
21 the United States. There's 100-and-something witnesses on that
22 sheet. Virtually everybody who's ever been active in any
23 campaign in Noxubee County is listed as a person with
24 knowledge. There is no reason for Ike Brown to single out
25 Mr. Slaughter for any reason because virtually everybody in the

1 completed hearing, I will rule. Court is adjourned.
2 (Recess)
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1 county that's active in politics is on the list, 100 maybe -- I
2 think it's 180 people.

3 MR. COATES: 110.

4 MR. COLOM: 110. And it in no way suggested that
5 Mr. Slaughter in any way was adverse to him in any way. A lot
6 of the people on the list are clearly people Mr. Brown has been
7 active in supporting in campaigns.

8 You know, this order is designed for -- everybody knows you
9 can't harass and intimidate witnesses. In fact, it's not an
10 injunction you're worried about. You're worried about being
11 prosecuted. This is designed for one purpose, have this
12 hearing with virtually no evidence supporting that Mr. Brown
13 has done anything so the United States can get a headline that
14 they got an injunction against him to discourage him as much as
15 they can in this process. Your Honor, there is no evidence
16 supporting that Mr. Brown did anything other than help
17 Mr. Slaughter get a job. Thank you.

18 THE COURT: I've previously stated that this hearing
19 for injunctive relief and these two cases would be continued,
20 and what I said applies also to the government's motion for
21 injunction with regard to harassing people who have been
22 identified by the United States in its additional disclosures
23 as having information in the case. I will reserve --
24 obviously, by continuing the case I'm reserving ruling on that
25 motion also and will -- when we've had the full or the.

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